

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 DAVID E. HAUSFELD  
Deputy Attorney General  
4 State Bar No. 110639  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2025  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

8  
9 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues  
12 Against:

Case No. 2009-325

13 **PAIGE JANAE BYERS**

**STATEMENT OF ISSUES**

14 8679 Butte Street  
15 LaMesa, CA 91941

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Statement of Issues solely in  
21 her official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
22 Consumer Affairs.

23 2. On or about September 15, 2008, the Board of Registered Nursing, Department of  
24 Consumer Affairs received an application for licensure by examination from Paige Janae Byers  
25 (Respondent). On or about September 10, 2008, Paige Janae Byers certified under penalty of  
26 perjury to the truthfulness of all statements, answers, and representations in the application. The  
27 Board denied the application on April 14, 2009. b1: 5: p1

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## JURISDICTION

3. This Statement of Issues is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2736 of the Business and Professions Code (Code) provides, in pertinent part, that the Board of Registered Nursing (Board) may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of that Code.

## STATUTORY PROVISIONS

5. Section 480 of the Code states, in pertinent part:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

....

(3) Done any act which if done by a licensee of the business or profession in question, would be grounds for suspension or revocation of license.

The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or duties of the business or profession for which application is made.

....

6. Section 2761 of the Code states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, ...

....

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

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1 (d) Any conviction or act subject to an order of registration pursuant to  
2 Section 290 of the Penal Code.

3 10. California Code of Regulations, title 16, section 1445, states, in pertinent part:

4 (a) When considering the denial of a license under Section 480 of the code,  
5 the board, in evaluating the rehabilitation of the applicant and his/her present  
6 eligibility for a license will consider the following criteria:

7 (1) The nature and severity of the act(s) or crime(s) under consideration as  
8 grounds for denial.

9 (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s)  
10 under consideration as grounds for denial which also could be considered as  
11 grounds for denial under Section 480 of the code.

12 (3) The time that has elapsed since commission of the act(s) or crime(s)  
13 referred to in subdivision (1) or (2).

14 (4) The extent to which the applicant has complied with any terms of parole,  
15 probation, restitution, or any other sanctions lawfully imposed against the  
16 applicant.

17 (5) Evidence, if any, of rehabilitation submitted by the applicant.

18 . . . .

19 **FIRST CAUSE FOR DENIAL OF APPLICATION**

20 **(June 16, 2003 Criminal Conviction for Driving Under the Influence on April 19, 2003)**

21 11. Grounds exist to deny the application of Respondent under sections 480 (a)(1) and  
22 480 (a)(3), in conjunction with 2761 (f) of the Code, in that Respondent was convicted of a crime  
23 substantially related to the qualifications, duties and functions of a licensed registered nurse. The  
24 circumstances are as follows.

25 12. On or about April 19, 2003, Respondent was driving her vehicle in the City of San  
26 Diego. At that time, she struck the rear end of another vehicle. Following the accident she fled  
27 the scene but was stopped a short distance away.

28 13. As a result of the April 19, 2003 incident, Respondent was arrested and charged with  
various Vehicle Code violations for driving under the influence and hit and run.

On June 16, 2003 Respondent entered a plea of guilty in San Diego Superior Court  
Case No. M894531 to a misdemeanor violation of Vehicle Code section 23152 (a), driving under  
the influence.

1           15. In consideration of the guilty plea to violation of Vehicle Code section 23152 (a), the  
2 remaining charges were dismissed. The dismissed charges were for violation of Vehicle Code  
3 section 23152 (b), a misdemeanor, driving under the influence with a blood alcohol level in  
4 excess of .08 and two separate violations of Vehicle Code section 20002 (a), a misdemeanor, hit  
5 and run.

6           16. As part of her criminal sentencing following the guilty plea to a violation of Vehicle  
7 Code section 23152 (a), Respondent was placed on summary probation; ordered to pay a fine;  
8 enroll in a first conviction alcohol program and enroll in a ten day public service program.

9                           **SECOND CAUSE FOR DENIAL OF APPLICATION**

10                          **(Unprofessional Conduct: Use of Alcoholic Beverages)**

11           17. Grounds exist to deny the application of Respondent under sections 480 (a)(3), in  
12 conjunction with 2762 (b) of the Code, in that Respondent used alcoholic beverages to an extent  
13 or in a manner dangerous or injurious to herself or others, as is more particularly described in the  
14 First Cause for Denial of Application, above, and incorporated herein by reference.

15                           **THIRD CAUSE FOR DENIAL OF APPLICATION**

16                          **(Unprofessional Conduct: Conviction of a Criminal Offense Involving Alcohol)**

17           18. Grounds exist to deny the application of Respondent under sections 480 (a)(3), in  
18 conjunction with 2762 (c) of the Code, in that Respondent was convicted of a criminal offense  
19 involving the consumption of alcohol, as is more particularly described in the First Cause for  
20 Denial of Application, above, and incorporated herein by reference.

21                           **FOURTH CAUSE FOR DENIAL OF APPLICATION**

22                          **(February 9, 2009 Criminal Conviction for Driving Under the Influence on December 28,**  
23   **2008, with a Prior Conviction)**

24  
25           19. Grounds exist to deny the application of Respondent under sections 480 (a)(1), 480  
26 (a)(3), in conjunction with 2761 (f) of the Code, in that Respondent was convicted of a crime  
27 substantially related to the qualifications, duties and functions of a licensed registered nurse. The  
28 circumstances are as follows.

1           20. On or about December 28, 2008, Respondent was driving her vehicle eastbound on  
2 I-8 in the City of El Cajon, California. At that time, she struck the rear end of another vehicle.  
3 Following the accident she fled the scene but was stopped a short distance away.

4           21. As a result of the December 28, 2008 incident, Respondent was arrested and charged  
5 with various Vehicle Code violations: driving under the influence, driving under the influence  
6 with a prior and hit and run.

7           22. On February 9, 2009 Respondent entered a plea of guilty in San Diego Superior Court  
8 Case No. C287607 to a misdemeanor violation of Vehicle Code section 23152 (b), driving under  
9 the influence with a blood alcohol level in excess of .15, with a prior conviction of driving under  
10 the influence.

11           23. In consideration of the guilty plea to a violation of Vehicle Code section 23152 (b),  
12 the remaining charges were dismissed. The dismissed charges were for violations of Vehicle  
13 Code section 23152 (a), a misdemeanor, driving under the influence with a prior conviction of  
14 driving under the influence; Vehicle Code section 20002 (a), a misdemeanor, hit and run.

15           24. As part of her criminal sentencing following the guilty plea to a violation of Vehicle  
16 Code section 23152 (b), Respondent was placed on summary probation, ordered to pay a fine,  
17 enroll in a multiple conviction alcohol program, and enroll in a twenty day public service  
18 program.

19                           **FIFTH CAUSE FOR DENIAL OF APPLICATION**

20                           **(Unprofessional Conduct: Use of Alcoholic Beverages)**

21           25. Grounds exist to deny the application of Respondent under sections 480 (a)(3), in  
22 conjunction with 2762 (b) of the Code, in that Respondent used alcoholic beverages to an extent  
23 or in a manner dangerous or injurious to herself or others, as is more particularly described in the  
24 Fourth Cause for Denial of Application, above, and incorporated herein by reference.

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**SIXTH CAUSE FOR DENIAL OF APPLICATION**

**(Unprofessional Conduct: Conviction of a Criminal Offense Involving Alcohol)**

26. Grounds exist to deny the application of Respondent under sections 480 (a)(3), in conjunction with 2762 (c) of the Code, in that Respondent was convicted of a criminal offense involving the consumption of alcohol, as is more particularly described in the Fourth Cause for Denial of Application, above, and incorporated herein by reference.

**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Denying the application of Paige Janae Byers for a Registered Nurse License,
2. Taking such other and further action as deemed necessary and proper.

DATED: 6/29/09 *Ruth Ann Terry*  
*for* RUTH ANN TERRY, M.P.H., R.N.  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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